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JAMES DOWNEY
CLERK

UNITED STATES DISTRICT COURT

SOUTHERN

District of

OHIO 06 SEP -8 PM 1:17

UNITED STATES OF AMERICA
V.JUDGMENT IN A CRIMINAL CASE
(For Revocation of Probation or Supervised Release)

DANIEL S. MCKINNEY

Case Number: CR-1-02-93

USM Number: 03602-061

C. RANSOM HUDSON

Defendant's Attorney

THE DEFENDANT:

☒ admitted guilt to violation of condition(s) 2,6,11 of the term of supervision.☐ was found in violation of condition(s) _____ after denial of guilt.

The defendant is adjudicated guilty of these violations:

| Violation Number | Nature of Violation | Violation Ended |
|------------------|---|-----------------|
| 1 | Failure to report to Probation Officer as directed and submit truthful and complete written monthly reports. | 2/1/06 |
| 2 | Failure to notify Probation Officer within 72 hours of any changes of residence or employment | 2/27/06 |
| 3 | Failure to notify Probation Officer within 72 hours of being arrested or questioned by a law enforcement officer. | 7/15/05 |

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☒ The defendant has not violated condition(s) Special Condition and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant's Soc. Sec. No.: xxx-xx-7953Defendant's Date of Birth: xx/xx/1979

Defendant's Residence Address:

2965 Colonial Ridge CourtCincinnati, Ohio 45212

Defendant's Mailing Address:

(same as above)

September 7, 2006

Date of Imposition of Judgment

Signature of Judge

Herman J. Weber, United States District Judge

Name and Title of Judge

Date

9/7/06

DEFENDANT: Daniel McKinney
CASE NUMBER: CR-1-02-93

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

Seven (7) months.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Daniel McKinney
CASE NUMBER: CR-1-02-93

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

2 Years

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Daniel McKinney
CASE NUMBER: CR-1-02-93

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall pay the balance due on the amount of restitution ordered.

The defendant is ordered to pay the balance of his restitution. Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows: Any balance upon incarceration shall be paid in minimum quarterly installments of \$25.00 if defendant is working in a non- UNICOR or grade 5 UNICOR Job, or if working in a grade 1 - 4 UNICOR Job defendant shall pay 50% of defendant's monthly pay during the period of incarceration. Any balance due upon commencement of supervision shall be paid, during the term of supervision, in minimum monthly installments of at least \$10.00, to commence 60 days after release from imprisonment. Any change in this schedule shall be made only by Order of the Court.

DEFENDANT: Daniel S. McKinney
CASE NUMBER: CR-1-02-93

ADDITIONAL SENTENCING FACTS

The defendant was sentenced on February 13, 2003 for a violation of Title 18, Section 2113(b) of the United States Code. The defendant was placed on PROBATION for a period of **SIXTY (60) MONTHS** with the special conditions of 120 days electronically monitored home confinement, no new lines of credit or purchases on existing lines of credit without the permission of the United States Probation Office, providing all financial information as requested by the probation officer, completion of the National Corrective Training Institute theft class and payment of restitution in the amount of \$10,182.00 at the direction of the Probation Office. Additionally, he was ordered to comply with the standard terms and conditions of Probation and pay a special assessment of \$100.00.

A Petition for Warrant or Summons for Offender Under Supervision was filed in this Court and a Warrant issued.

The defendant appeared with counsel, C. Ransom Hudson, Esq. before this Court for Probation Violation Hearings on April 28, July 10, and September 7, 2006. The Court, being fully advised from the information contained in the Probation Violation Report, Updates thereto, and statements made at said hearing, finds the defendant has violated:

- 1) the Condition of Probation that defendant shall report to the probation officer as directed by the probation officer or the Court, and shall submit a truthful and complete written monthly report within the first five days of each month;
- 2) the Condition of Probation that defendant shall notify the probation officer within 72 hours of any change in residence or employment; and
- 3) the Condition of Probation that defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.

The Court finds the defendant did not violate the Special Condition of Probation that the defendant shall pay restitution in the amount of \$10,182.00 to PNC Bank.

Pursuant to the policy statement at U.S.S.G. § 7B1.1(b) which are advisory, where there is more than one violation of the conditions of supervision, or where the violation includes conduct that constitutes more than one offense, the grade of the violation is determined by the violation having the most serious grade. The violations are Grade C in nature pursuant to the policy statement at U.S.S.G. § 7B1.1(a)(3) because they are violations of the conditions of supervision.

Pursuant to the policy statement at U.S.S.G. § 7B1.3(a)(2), upon a finding of a Grade C violation, the Court may revoke the sentence of probation or extend the term of probation and/ or modify the conditions of supervision.

DEFENDANT: Daniel McKinney
CASE NUMBER: CR-1-02-93

Pursuant to the policy statement at U.S.S.G. § 7B1.4, in the case of a revocation of probation, based upon a Grade C violation and the original Criminal History Category of II, the guideline imprisonment range is 4 to 10 months.

Pursuant to the policy statement at § 7B1.3(c), if the minimum term of imprisonment for a probation violation is at least one month but not more than six months, the minimum term may be satisfied by (A) a sentence of imprisonment; or (B) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention for any portion of the minimum term.

Pursuant to Title 18, U.S.C. § 3553, among the factors to be considered in imposing sentence are:

- 1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- 2) the need for the sentence imposed-
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
- (4) the kinds of sentence and the sentencing range established by the United States Sentencing Guidelines.

Based upon these factors and the statements and updated recommendations made during the hearing, the Court finds that a sentence within the range recommended by the Sentencing Guidelines is sufficient, but not greater than necessary to comply with the purposes of 18 U.S.C. §§ 3583 and 3553.

Both parties are notified by this Court that each of you have a right to appeal this sentence, and if you are unable to pay the cost of an appeal, you have the right to apply to this Court for leave to proceed in forma pauperis. If you are indigent and cannot retain a lawyer, you may apply and one will be appointed to represent you on your appeal.

You are further advised that, in accordance with the provisions of Rule 4(b) of the Rules of Appellate Procedure, you must file your notice of appeal with the Clerk of the United States District Court*within 10 days of the filing of judgment which will be filed on September 7, 2006. **Ten calendar days from the filing of the judgment is September 17, 2006.**

AO 245D (Rev. 12/03) Judgment in a Criminal Case for Revocations
Sheet 3C — Supervised Release

Judgment—Page 7 of 7

DEFENDANT: Daniel McKinney
CASE NUMBER: CR-1-02-93

The Court does hereby advise you that if you so request, the Clerk of this Court will prepare and file forthwith a notice of appeal on your behalf. It is further ordered that the defendant shall notify the United States Attorney for the Southern District of Ohio within 30 days of any change in residence or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid.